

DISMISSAL AND NOTICE OF RIGHTS

To: Peter Smith
401 Boyd Road
Shorter, AL 36075

From: Birmingham District Office
Ridge Park Place
1130 22nd Street, South
Birmingham, AL 35205

On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR § 1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

130-2005-01051

Booker T. Lewis,
Enforcement Supervisor

(205) 212-2115

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:

- The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.
- Your allegations did not involve a disability as defined by the Americans with Disabilities Act.
- The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.
- Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge.
- Having been given 30 days in which to respond, you failed to provide information, failed to appear or be available for interviews/conferences, or otherwise failed to cooperate to the extent that it was not possible to resolve your charge.
- While reasonable efforts were made to locate you, we were not able to do so.
- You were given 30 days to accept a reasonable settlement offer that affords full relief for the harm you alleged.
- The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.
- The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.
- Other (briefly state)

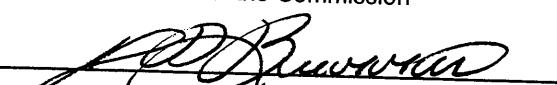
- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, and/or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under **of this Notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a state claim may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission


 Bernice Williams-Kimbrough,
District Director

3 NOV 2005

Enclosure(s)

(Date Mailed)

cc: Karen Sampson-Rodgers, Charging Party's Attorney
McPhillips Shinbaum, L.L.P.
P. O. Box 64 - Montgomery, AL 36101

Jim R. Ippolito, Jr., Chief Counsel
Alabama Department of Transportation - Legal Bureau
1409 Coliseum Boulevard
Montgomery, AL 36130-6350

STATE OF ALABAMA PERSONNEL DEPARTMENT

RECOMMENDATION FOR PERSONNEL ACTION

1. Name of Employee PETER J. SMITH			2. Social Security Number 419-08-6403		3. Salary \$832.90 BW	
First PETER	MI J.	Last SMITH				
4. Position Number 01927200	5. Class Title/Code EA (T)			6. Class Option Title/Code 20116		()
7. Department TRANSPORTATION	8. Division/Code 012	SIXTH (0600)			9. Effective Date October 8, 2004 COB	
INSTRUCTIONS		KIND OF ACTION				
<p>Item 11 requires signature of both department heads.</p> <p>Items 11, 13, 14, 15, 21 require approval of Personnel Director before action is official.</p> <p>Items 12, 13, 14, 15 must have copy of letter to employee attached. If voluntary demotion, letter from employee should be attached.</p> <p>Items 17 should have copy of letter of resignation or confirmatory letter from department attached.</p>		<p>10. Transfer within department <input type="checkbox"/></p> <p>11. Transfer to another department <input type="checkbox"/></p> <p>12. Suspension <input type="checkbox"/></p> <p>13. Demotion <input type="checkbox"/></p> <p>14. Layoff <input type="checkbox"/></p> <p>15. Dismissal <input checked="" type="checkbox"/></p> <p>16. Separation by death <input type="checkbox"/></p> <p>17. Resignation <input type="checkbox"/></p> <p>18. Retirement <input type="checkbox"/></p> <p>Disability <input type="checkbox"/></p> <p>Service <input type="checkbox"/></p> <p>19. Expiration of temporary appointment <input type="checkbox"/></p> <p>20. Expiration of provisional appointment <input type="checkbox"/></p> <p>21. Leave Without Pay <input type="checkbox"/></p> <p>22. Returned from LWOP <input type="checkbox"/></p> <p>23. Returned from military leave <input type="checkbox"/></p> <p>24. Change of name <input type="checkbox"/></p> <p>25. Other <input type="checkbox"/></p>				
ITEMS AFFECTED BY ACTION		FROM:			TO:	
26. Department (Items 10 and 11)						
27. Division/Code (Items 10 and 11)						
28. County of Employment/Code (Items 10 and 11)						
29. Class Title/Code (Items 10, 11, 13)						
30. Class Option/Code (Items 10, 11, 13)						
31. Dates (Items 12, 21, 22, and 23)	Friday, October 8, 2004					
32. Name (Item 24)						
13. If action is separation, is reemployment recommended?			Yes	X No	(If "No", explanation must be given.)	

1. TIME WORKED IN THE PAY PERIOD:
2. ACCUMULATED ANNUAL LEAVE:
3. ACCUMULATED SICK LEAVE:
4. ACCUMULATED HOLIDAYS:
5. COMPENSATORY TIME:
6. SEE ATTACHED

HOURLY

HOURLY HOURS

HOURS

DIVISION ENGINEER

DATE.

5. Signed
(Appointing Authority)

Date

10/5/04

6. Signed
(Appointing Authority)

5

7. Approved
(Personnel Director)

Date



ALABAMA DEPARTMENT OF TRANSPORTATION

SIXTH DIVISION
OFFICE OF DIVISION ENGINEER
POST OFFICE BOX 8008
1525 Coliseum Boulevard
MONTGOMERY, ALABAMA 36110
TELEPHONE: (334) 269-2311
FAX: (334) 263-2599



Bob Riley
Governor

Joe McInnes
Transportation Director

August 6, 2004

Mr. Peter J. Smith
AL Dept. of Transportation
Montgomery, Alabama

RE: Proposed Suspension Notice

Dear Mr. Smith:

This letter is to notify you of a recommendation for suspension. Your suspension has been proposed for the following reasons: Insubordination.

You have ten (10) calendar days from receipt of this notice to request in writing a hearing regarding your proposed suspension. If you desire a hearing, you should address and direct your written request to Mr. Randall A. Estes, P. E., Division Engineer, at the above address.

If you desire, you may request to review your personnel file and any departmental investigative report regarding the proposed suspension. If you desire copies of any documents, the cost of reproduction is \$.35 per page. If you request a hearing, you must bring two copies of each document you desire to be considered by the hearing officer and one copy for the department.

You may have witnesses appear to provide information to the hearing officer on your behalf. You may ask questions of any witness who appears on behalf of the department. You may also be represented by counsel at your expense if you desire.

After the hearing is completed, a recommendation regarding your proposed suspension will be forwarded to the Director, who will notify you of the final decision.

Sincerely,

A handwritten signature in black ink, appearing to read "Estes".

Randall A. Estes, P. E.
Division Engineer

Cc: Executive Assistant Director
Legal Bureau

Delivered: / /

Witness



ALABAMA DEPARTMENT OF TRANSPORTATION

SIXTH DIVISION
OFFICE OF DIVISION ENGINEER
POST OFFICE BOX 8008
1525 Coliseum Boulevard
MONTGOMERY, ALABAMA 36110
TELEPHONE: (334) 269-2311
FAX: (334) 263-2599



Bob Riley
Governor

Joe McInnes
Transportation Director

August 25, 2004

Mr. Peter Smith
Department of Transportation
Montgomery, AL 36110

RE: Proposed Suspension Recommendation

Dear Mr. Smith:

The hearing requested by you regarding your proposed suspension has been cancelled for Friday, August 27, 2004 at 2:00 p.m. pending further disciplinary action.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Estes".

Randall A. Estes, P.E.
Division Engineer

RWC/jdf

Cc: **Mr. Lamar S. Woodham, Jr.**
Mr. D. E. Phillips, Jr.
Mr. Mark Waits
Mr. Todd Jackson
File



ALABAMA DEPARTMENT OF TRANSPORTATION

SIXTH DIVISION

OFFICE OF THIRD DISTRICT ENGINEER
POST OFFICE BOX 8097
MONTGOMERY, ALABAMA 36109
TELEPHONE: (334) 242-6572
FAX: (334) 834-7941



Bob Riley
Governor

August 25, 2004

Joe Molines
Transportation Director

MEMORANDUM

To: Mark Waits
District Three Engineer

From: Patrick T. Jackson

Re: Employee Meeting

While on the project this morning, Mr. James Feagin requested a meeting with me. Below are the employees that were present at the meeting.

James Feagin	Melvin Wynn
Eric Robbins	Frank Hollifield
Jesse Taylor	Alverene Butler
Kelvin Wynn	Karen Stacey

Mr. Feagin stated that they felt that they have been placed in a "hostile work environment" by Mr. Peter Smith and Ms. Reeser Knight. Mr. Feagin stated that Peter and Reeser were constantly writing down everything that was said or done. They felt afraid to go to the restroom or have a normal conversation without it being recorded or taken out of context.

Mr. Robbins stated that they impeded work and were combative when given instruction about work. All were in agreement that Mr. Smith and Ms. Knight were making their work environment difficult, and "wanted something done about it."

I told them that I had talked to Mr. Furlow on Tuesday, August 24, 2004 about this same subject and I felt that the situation with Peter and Reeser was starting to disrupt my office. I assured them that I was trying to do everything I could about this situation and I felt that you were doing all that you could as well. I told them that Ms. Knight was having a hearing on her suspension on Friday, August 27, 2004, but Mr. Smith's hearing had been cancelled.

Since I currently have grievances filed against me by these two employees, I am unsure of what my role should or could be in trying to solve the problems that these other employees feel are being created by Mr. Smith and Ms. Knight. I did tell them that I would write to you and express their concerns to you.

PTJ/dbj
Sincerely,
Patrick T. Jackson
Project Engineer

Defendant's #10
Exhibit



ALABAMA DEPARTMENT OF TRANSPORTATION

SIXTH DIVISION

OFFICE OF DISTRICT THREE ENGINEER

POST OFFICE BOX 3097

608 CHISHOLM STREET

MONTGOMERY, ALABAMA 36110

TELEPHONE: (334) 242-6572

FAX: (334) 834-7941



Bob Riley
Governor

Joe McInnes
Transportation Director

July 16, 2003

**TO: Peter Smith
Engineering Assistant**

**FROM: Mark T. Waits
District Engineer**

RE: Meeting

**On July 23, 2003, at 1:30 p.m., please attend a meeting
in the Division Conference room number 1, concerning the
hearing for James Horace. The meeting in the Central Office
has been changed to the Division.**

MTW/jbh



Bob Riley
Governor

ALABAMA DEPARTMENT OF TRANSPORTATION
1409 Coliseum Boulevard, Montgomery, Alabama 36110



Joe McInnes
Transportation Director

August 13, 2004

MEMORANDUM

TO: Robert Baugh, Esq.
Sirote & Permutt, P.C.
(Handwritten signature of Robert Baugh)

FROM: Ronald J. Green
Executive Assistant Transportation Director
Bureau of Human Resources

RE: Employee Complaint, Docket No. 937

Attached is a copy of the most recent complaint received in my office and added to the docket. The schedule of deadlines is outlined below:

NAME:	Peter J. Smith
DOCKET NUMBER:	937
INVESTIGATOR:	Doug Furlow
DATE/TIME REC'D:	August 13, 2004 8:00 a.m.

**DEADLINE TO NOTIFY
ATTORNEY FOR CLASS
OF RECEIPT:** August 18, 2004

**DEADLINE FOR
INITIAL RESPONSE:** August 20, 2004

**INVESTIGATOR'S
FINDINGS:** September 8, 2004

**RESOLUTION MEETING
DATE AND TIME:** September 13, 2004 2:00 p.m.

LOCATION OF MEETING: Sixth Division

If I can be of assistance, please feel free to contact me.

RG/dp

Attachments

cc: Kell Simon, Esq.
Jim Ippolito, Esq.
Michael Cooper, Esq.

Mr. Randall Estes
Mr. Peter J. Smith
Ms. Sandi Dietz



ALABAMA DEPARTMENT OF TRANSPORTATION

Complaint Form

Name <i>Peter J. Smith</i>	Address 401 Boyd Road Shorter AL 36075			
SSN 2119-08-6403	Race/Sex Black/Male	Division/Bureau 6th	District/Section 3rd	Job Classification Engineering Assistant
Signature <i>Peter J. Smith</i>			Date Submitted 8-10-04	
Date (HR Bureau use only):		Docket # (HR Bureau use only):		
If your complaint is <u>not</u> based on discrimination, please check here: <input type="checkbox"/> None _____				
If your complaint <u>is</u> based on discrimination, please check one of the following:				
Age _____	Consent Decree Violation _____	Disability _____	National Origin _____	
Race <input checked="" type="checkbox"/>	Religion _____	Retaliation <input checked="" type="checkbox"/>	Sex/Gender _____	
Area in Which You Were Affected (You must check one):				
Compensation _____	Disciplinary Action _____	Hiring _____	Job Assignment/Duties _____	
Retaliation <input checked="" type="checkbox"/>	Training _____	Transfer _____		
Other (explain) _____				
Date of Incident: <i>6-11-04</i>				
Summary of Complaint (including the name of the employee against whom this complaint is being filed): <i>Filed on Mr Patrick Todd Jackson</i>				
<i>I was told in the presence of the witnesses listed below that "I" didn't do anything and that I could go home". I didn't know that Mr Jackson had suddenly been endowed with the power to hire and fire state employees. additional information contained in attachment.</i>				
Names of Witnesses: <i>Superintendent of Dubose Construction Marty (80 Job)</i>				
<i>James Feagly, Jessie Taylor, Keith Johnson, Frank Hollie Field, Eric Robbins, Melvin Wynn.</i>				
Your Suggested Resolution:				

Please return to:

- (1) Your immediate Supervisor or
- (2) Your Division EEO Representative or
- (3) ALDOT Human Resources Bureau (Attention: Title 7 Coordinator)
1409 Coliseum Blvd. Montgomery, AL 36130

Revised 1/11/02



ALABAMA DEPARTMENT OF TRANSPORTATION

Complaint Form

Name Peter J. Smith		Address 401 Boyd Road		
SSN 419-08-6403	Race/Sex Black/Male	Division/Bureau 6th / 3rd	District/Section 3rd	Job Classification Engineering Assistant
Signature Peter J. Smith		Date Submitted 9-24-04		
Date (HR Bureau use only):		Docket # (HR Bureau use only):		
If your complaint is <u>not</u> based on discrimination, please check here: None				
If your complaint <u>is</u> based on discrimination, please check one of the following:				
Age <input type="checkbox"/>	Consent Decree Violation <input checked="" type="checkbox"/>		Disability <input type="checkbox"/>	National Origin <input type="checkbox"/>
Race <input type="checkbox"/>	Religion <input type="checkbox"/>	Retaliation <input type="checkbox"/>	Sex/Gender <input type="checkbox"/>	
Area in Which You Were Affected (You must check one):				
Compensation <input type="checkbox"/>	Disciplinary Action <input checked="" type="checkbox"/>	Hiring <input type="checkbox"/>	Job Assignment/Duties <input type="checkbox"/>	
Retaliation <input checked="" type="checkbox"/>	Training <input type="checkbox"/>	Transfer <input type="checkbox"/>		
Other (explain) contempt of Federal Court Violation				
Date of Incident: Letter Dated 9-20-04				
Summary of Complaint (including the name of the employee against whom this complaint is being filed): ALDOT and State Personel				
This is retaliation for taking and being placed on three different C.E registers and taking the right of way specialist exam. Testifying at the hearing of Mr James Horace, reporting the crime of assault against Mr Horace through the workplace violence form and a grievance. Reporting my unfair treatment by Mr Jucks on as it relates to Mrs Karen Stacy.				
Names of Witnesses: and being named in the individual contempt going through federal court which I submitted documentation to plaintiff				
Your Suggested Resolution: Attorneys that was due on 8-2-04.				

Please return to:

- (1) Your immediate Supervisor or
- (2) Your Division EEO Representative or
- (3) ALDOT Human Resources Bureau (Attention: Title 7 Coordinator)
1409 Coliseum Blvd. Montgomery, AL 36130

Revised 1/11/02

WIGGINS, CHILDS, QUINN & PANTAZIS, P.C.

A PROFESSIONAL CORPORATION

ROBERT L. WIGGINS, JR.
 ROBERT F. CHILDS, JR.
 A. J. BECK
 C. MICHAEL QUINN
 DENNIS G. PANTAZIS
 TERRILL W. SANDERS
 RICHARD J. EBBINGHOUSE
 ANN K. WIGGINS
 SAMUEL FISHER
 ANN C. ROBERTSON
 JOSEPH H. CALVIN, III
 DEBORAH A. MATTISON
 TIMOTHY B. FLEMING*
 BYRON R. PERKINS
 JON C. GOLDFARB
 GREGORY O. WIGGINS
 LEE D. WINSTON
 ROCCO CALAMUSA, JR.
 BRIAN M. CLARK
 RUSSELL W. ADAMS

LOUIS SILBERMAN 1889-1976
 WILBUR G. SILBERMAN 1919-2003

THE KRESS BUILDING
 THREE HUNDRED ONE - NINETEENTH STREET NORTH
 BIRMINGHAM, ALABAMA 35203
 205-314-0500
 205-254-1500 (FAX)

CRAIG L. LOWELL
 MAURY S. WEINER
 EDWARD McF. JOHNSON
 KELL A. SIMON
 RODERICK T. COOKS
 *LORI KISCH
 *ERIC BACHMAN
 *HERMAN N. JOHNSON, JR.
 TEMPLE D. TRUEBLOOD
 AUDREY REITZ CHANNEL
 STEVEN L. ATHA
 H. WALLACE BLIZZARD
 KEVIN W. JENT
 JENNIFER WIGGINS SMITH
 MINTREL D. MARTIN
 SUSAN DONAHUE
 BENJAMIN J. DEGWEECK
 JOSHUA D. WILSON
 *HARSIMRAN KAUR DANG

*Not Licensed in Alabama

July 23, 2004

CONFIDENTIAL AND PRIVILEGED - ATTORNEY-CLIENT COMMUNICATIONS

PETER SMITH
 401 BOYD ROAD
 SHORTER, AL 36075

Re: *Reynolds v. Alabama Department of Transportation*
 CV-85-T-665-N

Dear Mr. Smith:

In January 2000, United States District Judge Myron Thompson found the Alabama Department of Transportation in contempt of court because they had not complied with the *Reynolds v. ALDOT* consent decree. Judge Thompson then assigned Special Master Carlos Gonzalez to determine whether individual African-American employees of the Department of Transportation had been denied a promotion because of ALDOT's contempt. Your name was submitted to Special Master Gonzalez as one of those individuals who was denied such a promotion. A listing of the jobs you applied or were qualified for was also submitted to the Special Master. The Special Master has now asked each plaintiff to review this list of jobs and to identify the **one** job each plaintiff seeks.

The enclosed form lists each of the jobs you applied for or were qualified for during the relevant time period. Please review this list and select the **one** job to which you would most like to be promoted. This information will then be forwarded to the Special Master. The Special Master has emphasized that you must list one and only one job for your promotion claim - your may lose your right to pursue any claims for contempt remedies if you select more than one job. If you are not interested in pursuing a promotion claim based on the defendants' contempt, there is a space provided to indicate that on the form. If you check the box stating that you do not wish to pursue a promotion claim, we will withdraw your claim from the proceedings.

BIRMINGHAM - SATELLITE
 2017 5TH AVENUE NORTH
 BIRMINGHAM, ALABAMA 35203
 205-314-0500
 205-254-1500 (FAX)

WASHINGTON, D.C.
 7 DUPONT CIRCLE N.W. - SUITE 200
 WASHINGTON, D.C. 20036
 202-467-4123
 202-467-4498 (FAX)

LAW OFFICES

WIGGINS, CHILDS, QUINN & PANTAZIS
A PROFESSIONAL CORPORATION

July 23, 2004
Page 2

Please note that identifying the job you would like to be promoted to does not entitle you to an automatic promotion. The Department of Transportation does not agree that any plaintiff class members are entitled to promotions because of the contempt. Your claim for a promotion may be the subject of a hearing or trial before the Special Master. No date has been set for such a hearing. It is also important to note that if you do receive a promotion as a result of these proceedings, you will not receive any back pay or other monetary relief for any promotion that you were denied before May 29, 2001, as those monetary claims were settled with the other back-pay and promotion claims in 2001.

Please complete the enclosed form and return it in the envelope provided. Your response **must be postmarked by August 2, 2004**. The Special Master has not given us very much time to supply him with the requested information, so it is crucial that you send the paperwork in on time. You may lose your right to pursue a contempt claim for a promotion if your response is not postmarked by August 2. Should you have any questions concerning this matter, please direct them to Kell Simon or Wallace Blizzard at the following address:

Wiggins, Childs, Quinn & Pantazis
301 19th Street North
Birmingham, Alabama 35203

Thank you for your cooperation in this matter.

Sincerely,

Kell A. Simon

enclosure

CONFIDENTIAL ATTORNEY-CLIENT COMMUNICATIONS

Claimant - PETER SMITH (419-08-6403)

The records of the State Personnel Department show that you applied or were qualified for the following job classifications during the period of the defendants' contempt of court:

10801-EQUAL EMPLOYMENT OFFICER; 10948-DEPT PROCUREMENT OFFICER I; 20220-CARTOGRAPHIC SPECIALIST; 20480-CIVIL ENGINEER; and 20483-CIVIL ENGINEERING MANAGER.

Please check one box below:

I do wish to pursue a claim for a promotion in the contempt proceedings. I would like to assert a promotion claim for the following **one** job classification: (Indicate **one** job classification from the above list):

20483 - Civil Engineering Manager.

I do not wish to pursue a promotion claim.

Peter J. Smith
Signature

Peter J. Smith
Printed name

401 Boyd Road
Shorter, Alabama 36075
Address

(334) 727-4430
Telephone number

419-08-6403
Social Security Number

August 2, 2004
Date



Bob Riley
Governor

ALABAMA DEPARTMENT OF TRANSPORTATION
1409 Coliseum Boulevard, Montgomery, Alabama 36110



Joe McInnes
Transportation Director

October 15, 2004

Peter J Smith
401 Boyd Road
Shorter, AL 36075

Job Classification:	20481-Transportation Technologist
Biweekly Entrance Salary:	\$1041.50
Biweekly Salary Range:	\$1041.50 - \$1741.80
Location:	Montgomery County
Number of Vacancies:	1
Rank:	5

Dear Peter J Smith:

Your name has been certified to us by the State Personnel Department for the classification shown above. You will note that we have indicated the entrance salary and salary range as well as the location of the position listed above. This is not an offer of appointment but is merely to determine your availability for employment consideration.

Please indicate your availability below and return this entire letter to George T Ray, Transportation Planning within ten days of the date of this letter

Please check the statement that describes your situation.

If you indicate that you are available for appointment, include a current application or resume with this letter.

I am available for appointment.
 I am not available, please remove my name from the list until further notice.
 I am not available now, but will be available _____ (date).
 I am not available at the location shown above but am available (list counties).

Address: City, State, Zip Code 401 Boyd Road Shorter, Alabama 36075
 Telephone Numbers: Home (334) 538-8694 Work ()

Signature Peter J. Smith
 Do you have any relatives, i.e., parents, spouse, sisters, brothers, cousins, in-laws, etc., currently employed by The Alabama Department of Transportation? YES NO
 If you checked yes, please indicate the names of your relatives and their relationship to you:
 (You may continue listing on the back of this letter if necessary).

Name of Relative:

Relationship to You:

Relative's Work Location:

The information regarding relatives is gathered only to ensure that a relative does not participate in the interview or selection process. Having a relative within the Department does not prevent you from being considered for or receiving an appointment.

Sincerely,

George Ray

George T Ray
Transportation Sr Admin